or of a trust deed who has sold the property without providing specifically for the personal liability of the grantee for the debt, may pay that debt and still retain his right of subrogation. The general rule denies to an uninterested party or volunteer who pays the debt, the right to subrogation. *Binford* v. *Adams,* 104 Ind. 41, 3 N. E. 753. On the other hand, one who has some interest which he can protect only by the payment of a debt, may pay this debt and be subrogated to the rights of the original mortgagee. EATON, EQUITY, p. 512. In the principal case, the court holds that since the plaintiff was personally liable for the debt, he had a right to pay it without entirely extinguishing it and releasing the lien on the property. Nor should he be considered a mere interloper but should have a right of subrogation equal to that of any third person who had paid the debt under like circumstances and equity will not permit the grantee to question this right even though no personal liability was fastened upon the grantee by the conveyance. The court says, "By accepting the deed containing the clause quoted in the statement (that the transfer was subject to the trust deed), appellant was advised of the conditions specified therein, and he should not be heard now in a court of equity to say that the property contained in the deed of trust should not be subjected to the payment of the debt for which it was pledged. The facts showed that he purchased, knowing that the debt secured by the deed of trust was to be deducted from the purchase price."

EVIDENCE—ADMISSIBILITY OF STATEMENTS IN CORROBORATION OF TESTIMONY OF DISCREDITED WITNESS.—Plaintiff sued and recovered upon a policy of fire insurance issued by the defendant company. In the course of the trial an affidavit made by one of the defendant's witnesses prior to the time of trial, containing statements contradictory to the testimony given by him on the trial, was introduced for the purpose of discrediting him. To offset the effect of this affidavit, the defendant's counsel offered another affidavit of the witness, which was in accordance with his testimony on the trial, and which had been made at a time prior to that of the affidavit introduced. This second affidavit was rejected by the court and the ruling was assigned as error. *Held,* the rejection of the affidavit was not error. *Queen Ins. Co.* v. *Van Giesen* (Ga. 1911) 72 S. E. 41.

As to the admission in evidence of prior statements consistent with the testimony of a witness when other statements of that witness inconsistent with his present testimony have been presented to the court, the decisions in the different courts are by no means uniform. The federal courts adhere to the rule as given in the case above, and hold that evidence is not admissible that the witness gave the same account out of court, although it has been shown in order to contradict him that he had given a different account. *U. S.* v. *Holmes,* Fed. Cas. No. 15,382. This rule has been adopted in the following cases: *State* v. *Vincent,* 24 Iowa 570; *Ware* v. *Ware,* 8 Me. (8 Greenl.) 42; *Commonwealth* v. *Jenkins,* 10 Gray 485; *Cincinnati Traction Co.* v. *Stephens,* 75 Ohio St. 171. In *People* v. *Doyell,* 48 Cal. 85, it was held that only in case the statements offered in corroboration of the testimony of the discredited witness had been made by him before he could foresee their effect were such statements admissible, but in *People* v. *Wright,* 4 Cal. App. 704, it was laid

down that such statements were not admissible. In *Reed* v. *Spaulding*, 42 N. H. 114, it was said by the court that such statements were not admissible unless it should distinctly appear that there had been some change in the relation of the witness to the party or to the cause since such early statements were made. In a few of the decisions it is declared that the confirmatory statement to be admissible must have been made prior to the contrary narration. *State* v. *Petty*, 21 Kan. 54; *State* v. *Caddy*, 15 S. D. 167; *Queener* v. *Morrow*, 41 Tenn. (1 Cold.) 123. In Indiana the rule is that such statements, while they must be limited to that part of the testimony contradicted by the alleged statements shown in the impeaching evidence, *Hicks* v. *State*, 165 Ind. 440, need not be limited to such declarations as were made before the impeaching declarations. *Brookbank* v. *State*, 55 Ind. 169. The following cases hold that such statements are generally admissible: *Burnett* v. *Wilmington, N. & N. Ry. Co.*, 120 N. C. 517; *Sims* v. *State*, 36 Tex. Cr. R. 154; *State* v. *Fontenot*, 48 La. Ann. 283.

EVIDENCE—OTHER OFFENSES AS EVIDENCE OF OFFENSE CHARGED.—Defendant was convicted of rape, the prosecuting witness being under the age of consent. During the trial, evidence of other acts of sexual intercourse between the parties prior to the date set out in the information was offered by the prosecution, and was received by the court. Defense on appeal assigned the reception of this evidence as error. *Held*, the evidence of such other offenses was admissible as tending to prove the main allegation. *People* v. *Jacobs* (Cal. App. 1911) 117 Pac. 615.

It is the general rule supported by an almost overwhelming weight of authority that in a prosecution for a particular offense, evidence tending to show the defendant guilty of another offense, disconnected with the crime charged, is inadmissible. *People* v. *Jenness*, 5 Mich. 305; *Nesbit* v. *State*, 125 Ga. 51; *People* v. *Molineux*, 168 N. Y. 264. But evidence which tends to prove defendant's guilt of the offense charged is admissible, although it may also have reference to a distinct offense. *Commonwealth* v. *Schaffner*, 146 Mass. 512; *Glover* v. *People*, 204 Ill. 170; *State* v. *Ames*, 90 Minn. 183. *Contra*, *Gay* v. *State*, 115 Ga. 204. But it is not proper to raise a presumption of guilt on the ground that having committed one crime, the depravity which it exhibits makes it likely that the defendant would commit another. *Shaffner* v. *Com.*, 72 Pa. St. 60; or to prove that he committed other crimes of a like nature for the purpose of showing that he would be likely to commit the crime charged in the indictment. *Bullock* v. *State*, 65 N. J. L. 557. On a prosecution for intercourse in violation of the age of consent law, however, the great majority of the authorities hold with the case above that evidence of other prior acts of intercourse between the parties within the prohibited period is admissible to shed light upon the act upon which the indictment is predicated. *State* v. *Trusty*, 122 Iowa 82; *Sykes* v. *State*, 112 Tenn. 572; *Boyd* v. *State*, 81 Ohio St. 239; *People* v. *Castro*, 133 Cal. 11. That acts of rape committed after the offense charged in the indictment are not admissible in evidence, is the rule in some jurisdictions. *People* v. *Brown*, 142 Mich. 622; *Cecil* v. *Territory*, 16 Okla. 197; *State* v. *Hilberg*, 22 Utah 27; *People* v. *Robertson*, 18 N. Y. C. R.